

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:
JAMIE E. BITNER,
TABITHA M. BITNER,

Debtor(s)

Case No: B-1081206 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtors' plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on July 12, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On July 12, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The petition filed by the Debtors proposes a monthly plan payment of \$1,478.00 per month for a period of 60 months. Unsecured creditors will not receive any dividend. There is approximately \$71,630.07 of unsecured debt listed in Schedule "F".
5. The Debtors' plan provides for the payment of a secured claim in favor of Ford Motor Credit ("Ford") in the amount of \$23,914.90 secured by a 2010 Ford Focus with interest at the rate of 5.25% per annum in the amount of \$468.00 per month.
6. Additionally, the Debtors' plan provides for the payment of another secured claim with Ford on another 2010 Ford Focus in the amount of \$21,048.94 with interest at the rate of 5.25% per annum in monthly installments of \$481.96.
7. Furthermore, the Debtors' plan provides for the payment of a secured claim with Wells Fargo on a 2009 Hyundai in monthly installments of \$215.67.

8. In addition, Santander has filed a claim in the amount of \$15,848.97 secured by a 2007 Nissan Xterra. The Debtors' plan proposes to pay the claim as secured to the value of the Nissan Xterra in the amount of \$14,760.00 with interest at the rate of 5.25% per annum in installments of \$288.18 per month and the balance of the claim as unsecured.
9. The Trustee objects to confirmation of the plan in that the Debtors' proposed plan payments are not sufficient to satisfy the numerous vehicle claims in this case, along with all other secured or priority claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307; or
2. For such other and further relief as the Court may deem just or proper.

This the 29th day of September, 2010.

/s/ Benjamin E. Lovell
Benjamin E. Lovell
Attorney for the Trustee
State Bar No: 23266
P.O. Box 3613
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Jamie & Tabitha Bitner, 405 Copper Creek Dr., Raeford, NC 28376, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 2nd day of June, 2010.

s/Benjamin E. Lovell
Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee